

09/08/00  
JC932 U.S. PTO

09-11-00

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Serial No.: Unassigned  
Inventor: BATEMAN, Paul  
Attorney Docket No.: 49447-2USPX  
Express Mail No.: EL258050275US

JC993 U.S. PTO  
09/658302  
09/08/00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: BATEMAN, Paul

Entitled: SEPARATION AND DETECTION OF SPERMATOZOA

Box Patent Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

EL258050275US

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I hereby certify that this paper, including the documents referred to therein, or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231

Type or Print Name Robyn Landman  
Signature Robyn Landman

REQUEST FOR FILING A CONTINUATION OF AN  
INTERNATIONAL APPLICATION  
35 U.S.C. §§ 111(a) and 365(c)

This is a request for filing a continuation application under 37 C.F.R. § 1.53(b) of pending prior International Application Number PCT/GB99/02685, filed on August 13, 1999, entitled SEPARATION AND DETECTION OF SPERMZTOZOA, which designates the United States, hereby incorporated herein by reference, which claims the benefit of British Patent Application No. 9817795.9 filed on August 14, 1998, by the following named inventor(s):

Full Name of Inventor	Family Name BATEMAN	First Given Name Paul	Second Given Name
Residence & Citizenship	City KINGSTON-UPON-THAMES	State or Foreign Country GREAT BRITAIN	Country of Citizenship GREAT BRITAIN
Post Office Address	Post Office Address 12-50 KINGSGATE ROAD, KINGSTON-UPON-THAMES KT2 5AA, GREAT BRITAIN	City KINGSTON-UPON-THAMES	State & Zip Code/Country GREAT BRITAIN

1. ☒ Enclosed are 12 pages of the specification, 5 pages of claims, and 1 page containing the abstract of International Application No. PCT/GB99/02685 as published.

2. ☒ The filing fee is calculated on the basis of the claims.

FOR	NUMBER FILED	NUMBER EXTRA	RATE	CALCULATIONS
TOTAL Claims	30 -20 =	10	x \$ 18.00 =	\$180
INDEPENDENT Claims	2 -3 =		x \$ 78.00 =	0
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			1 x \$ 130 =	\$130
BASIC FEE				+ \$ 690.00
TOTAL OF ABOVE CALCULATIONS =				\$1,000
REDUCTION BY ½ FOR FILING BY SMALL ENTITY (Note 37 C.F.R. 1.9, 1.27, 1.28). IF APPLICABLE, VERIFIED STATEMENT MUST BE ATTACHED.				\$
Total =				\$1,000

3. ☒ The Commissioner is hereby authorized to charge fees under 37 C.F.R. §1.16 and §1.17 which may be required, or credit any overpayment to Deposit Account No. 10-0447, reference 49447-2USPX. A duplicate copy of this sheet is enclosed.
4. ☒ A check in the amount of \$1,000 for the application fee is enclosed.
5. ☒ **UNEXECUTED** Declaration with Power of Attorney from the inventor(s).
6. ☐ Certified copy of Priority Document \_\_\_\_\_.
7. ☐ Applicant is a small entity. A Statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.
8. ☒ Priority of foreign application number 9817795.9 filed on August 14, 1998 in Great Britain is claimed under 35 U.S.C. § 119(a)-(d).
9. ☒ Amend the specification by inserting before TECHNICAL FIELD on the first line the sentence: "This application is a continuation of International Application No. PCT/GB99/02685, filed on August 13, 1999, pending, which claims the benefit of British Patent Application No. 9817795.9 filed on August 14, 1998."
10. ☒ Two sheets of formal drawings are enclosed.
11. ☒ A Preliminary Amendment is enclosed.

12. ☒ Address all future communications to:

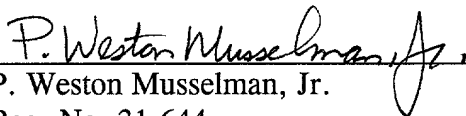
P. Weston Musselman, Jr.  
JENKENS & GILCHRIST, P.C.  
1445 Ross Avenue, Suite 3200  
Dallas, Texas 75202-2799

13. ☒ A Petition to Make Special For New Application Under MPEP § 708.02, VIII is enclosed, along with PTO Form A820 (formerly PTO-1449), and a copy of each prior art reference identified on PTO Form A820.

14. ☒ Also enclosed:

1. Certificate of Express Mailing No. EL258050275US
2. Postcard

Respectfully submitted,  
JENKENS & GILCHRIST, P.C.

  
P. Weston Musselman, Jr.  
Reg. No. 31,644

Date: September 8, 2000

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Serial No.: Unassigned  
Inventor: BATEMAN, Paul  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of: BATEMAN, Paul

Entitled: **SEPARATION AND DETECTION OF SPERMATOZOA**

Box Patent Application  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

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Type or Print Name . . . . . Robyn Landman . . . . .  
Signature . . . . . *Robyn Landman* . . . . .

**PRELIMINARY AMENDMENT**

Applicant respectfully requests the Examiner to consider the following amendment and comments.

**IN THE SPECIFICATION**

Please amend the specification as follows:

Insert on the first line of page one before TECHNICAL FIELD the sentence: "This application is a continuation of International Application No. PCT/GB99/02685, filed on August 13, 1999, pending, which claims the benefit of British Patent Application No. 9817795.9 filed on August 14, 1998."

On Page 3, line 16, page 3, line 19, page 4, line 20, and page 7, line 26, delete "PCT/GB99/01929" and insert therefor --WO99/66331--.

On page 3, line 30, insert -- the same or -- after "recognise".

## IN THE CLAIMS

Cancel Claims 5, 11, 32-44 and 46-51.

Claim 1, line 6, delete "substantially."

Claim 6, line 17, delete "any preceding claim" and insert therefor --Claim 1--.

Claim 9, line 24, delete "any preceding claim" and insert therefor --Claim 1--.

Claim 10, line 27, insert after "800 $\mu$ m" --, more preferably 600 $\mu$ m--.

Claim 12, line 1, delete "any preceding claim" and insert therefor --Claim 1--.

Claim 13, line 3, delete "any preceding claim" and insert therefor --Claim 2--.

Claim 13, line 3, delete "filter" and insert therefor --apparatus--.

Claim 14, line 5, delete "any of claims 6 to 13" and insert therefor --Claim 6--.

Claim 17, line 14, delete "any of claims 6 to 16" and insert therefor --Claim 6--.

Claim 19, line 18, delete "any of claims 6 to 18" and insert therefor --Claim 6--.

Claim 23, line 1, delete "claim 21 or claim 22,."

Claim 24, line 4, delete "claim 21 or claim 22,."

Claim 25, line 7, delete "any of claims 6 to 24" and insert therefor --Claim 6--.

Claim 28, line 13, delete "claim 26 or claim 27,."

Claim 29, line 15, delete "claim 26 or claim 27,."

Claim 31, line 19, delete "any of the preceding claims" and insert therefor --Claim 1--.

Claim 45, line 25, after "surface," insert --, wherein the filter is the filter contained within the apparatus of any of claims 1 to 31,--.

## REMARKS

Applicant requests that the Examiner amend the specification as noted above. The amendments are being made (1) to include related application data on page one, (2) to replace within the specification PCT application number No. PCT/GB99/01929 with the PCT publication number WO99/66331, and (3) to include on page 3, line 60 a statement corresponding to Claim 24 as filed. No new matter has been included. It is believed that no supplemental fees are required for entry of this Preliminary Amendment. However, the Commissioner is hereby authorized to charge any amount required or credit any overpayment in connection therewith to deposit account number 10-0447 of Jenkins & Gilchrist, P.C.

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JENKENS & GILCHRIST, P.C.

Date: SEPTEMBER 8, 2000

Dallas2 713510 v 1, 49447.00002

## SEPARATION AND DETECTION OF SPERMATOZOA

### TECHNICAL FIELD

This invention relates to the separation and detection of spermatozoa. It provides methods and kits for the separation and/or detection of motile spermatozoa in a sample, which are useful in a number of applications, including the diagnosis and treatment of male infertility.

### BACKGROUND ART

It has been estimated that approximately 14-16% of all couples attempting to conceive experience difficulty, and are defined by fertility therapists as infertile. 40% of these cases result from male factors. In a substantial proportion of these, treatment is available to ameliorate or relieve the condition which leads to infertility.

Other conditions also exist in which it is desirable to test for the presence or otherwise of viable spermatozoa in a sample. For example, vasectomies are now frequently carried out as a method of contraception, but it is necessary to verify the effectiveness of a vasectomy by confirming that ejaculate is free of viable spermatozoa for a period of time after the operation.

A number of methods exist for assessing the motility and number of spermatozoa in a sample. One such method is microscopic analysis, which is typically carried out in a hospital or commercial laboratory. More recently, however, a number of proposals have been made for test kits which are intended to simplify the detection of spermatozoa, and which may therefore be useful in the diagnosis of male infertility. For example, WO97/40386 discloses a kit which is based on the detection of the 34kD human epididymal spermatozoa protein (P34H). This protein is thought to be involved in spermatozoa-zona pellucida interaction. The test kit disclosed in WO97/40386 uses an antibody raised against P34H or a related antigen, and a reagent for detecting antibody binding to P34H. As disclosed in WO97/40386, spermatozoa in a test sample are washed three times by centrifugation in Dulbecco-phosphate buffered saline. The samples are then heat denatured at 95°C, centrifuged at 14000g, and the supernatants are then used for analysis.

EP-A-0387873 also discloses a kit for the evaluation of male fertility. This kit uses solid beads to which is bound an antibody specific to an antigenic site on the human spermatozoon acrosome. Such beads are mixed with a test sample, and incubated for a period of 10 to 30 minutes. The test beads are then separated from the suspension, washed and subjected to

measurement of the number of spermatozoa bound to the solid beads, preferably by examination with the aid of a microscope.

A kit for the detection of spermatozoa in a sample is also disclosed in WO95/29188. In this case, the test is based on antibodies to an antigen such as the SP-10 antigen of human spermatozoa.

A significant disadvantage of the test kits disclosed in the prior art mentioned above is that they do not distinguish between motile and non-motile spermatozoa. In the detection of male infertility, the ability to assess the numbers of motile spermatozoa is the most predictive indicator of male infertility. Moreover, many of the prior art test kits involve procedures, such as centrifugation or microscopic examination, which do not lend themselves to home use, instead requiring implementation by a skilled practitioner.

It is therefore desired to provide a device, which can be self contained or provided in a plurality of components, and a method for separating motile spermatozoa from non-motile spermatozoa, and for collecting and detecting the presence of the motile spermatozoa.

## 15 DISCLOSURE OF INVENTION

The invention provides an apparatus for separating motile spermatozoa from non-motile spermatozoa in a liquid sample, the apparatus comprising (i) a vessel having a sample receiving inlet, a filtered sample outlet and a sample separation filter mounted therebetween, the sample separation filter having a sample-receiving surface and an opposed surface, and the sample separation filter being effective substantially to prevent flow of the sample therethrough, but permitting passage of motile spermatozoa therethrough when said opposed surface of said sample separation filter is placed in contact with a liquid medium and (ii) means for supplying a liquid to said opposed surface of said filter. The sample may comprise motile spermatozoa, non-motile spermatozoa and/or spermatozoa with reduced motility.

In order to detect the separated motile spermatozoa, spermatozoa detection means such as a spermatozoa detection filter may be provided at a sample outlet side of the sample separation filter, and spaced therefrom. The detection means may be integral with the apparatus, or it may be provided as a separate component thereof for inserting into the apparatus before, during or after placing the filter in contact with the liquid medium. The spermatozoa detection filter may have similar characteristics to the sample separation filter.



The filters may have a thickness of 100-2000 $\mu$ m, preferably 200-1000 $\mu$ m, and more preferably 400-800 $\mu$ m. For example, the filters may have a thickness of about 600 $\mu$ m. The minimum particle retention size of the filters may be 5-100 $\mu$ m, preferably 8-60 $\mu$ m, and more preferably 10-40 $\mu$ m. The filters may be fibrous, for example made of glass wool or polypropylene, or they may have a gel or a foam construction. For gel or foam constructions that are not self supporting, an underlying grid lattice or other support may be provided. A particularly preferred filter is a glass fibre filter, which may include a binder such as an acrylic ester. It will be appreciated that the use of a gel as the filter can avoid the need to supply liquid to its opposed surface, because the gel itself acts as suitable means for achieving this.

10 Preferred gels are hyaluronic acid and methylcellulose.

A reagent or a combination of reagents may be located in the spermatozoa detection means which are directly or indirectly capable of generating a visual signal on interaction with spermatozoa. These reagent or combination of reagents may include antibodies that detect an antigen present on spermatozoa and/or may be capable of binding spermatozoa. Spermatozoa, when immobilised by such antibodies, could be visually detected using a visually detectable reagent which binds to spermatozoa. Antibodies to CD59, as discussed in PCT/GB99/01929, the complete disclosure of which are incorporated herein by reference, have been found to be suitable for this purpose.

15

A spermatozoa chemoattractant, such as follicular fluid as identified in PCT/GB99/01929, may be located in the spermatozoa detection means. Such spermatozoa chemoattractants are preferably located in a portion of the spermatozoa detection means distal from the sample separation filter.

20

A pick-up zone may be located either in the sample separation filter or the spermatozoa detection means, said pick-up zone comprising a reagent or combination of reagents which is/are capable of binding to spermatozoa and being transported therewith through the filter(s) to a detection area of the spermatozoa detection means. The reagent or combination of reagents of the pick-up zone may include antibodies that detect an antigen present on spermatozoa. These antibodies may be detectably labelled, for example with gold particles.

25

The antibodies that are located in the detection area of the spermatozoa detection means may recognise a different spermatozoa antigen from those located in the pick-up zone.

30

The spermatozoa detection means may comprise a spermatozoa acrosome-lysing reagent and a means for detecting pH change. The spermatozoa acrosome-lysing reagent is typically a lysis buffer, and may comprise Proteinase K or the calcium ionophore A24297. The means for detecting pH change could be a pH sensitive probe or a pH indicator reagent capable of visually detecting a pH change, for example bromocresol purple.

The sample receiving surface of the sample separating filter may contain an enzymatic liquefaction agent, such as chymotrypsin, capable of causing semen liquefaction.

The invention also provides a male fertility testing kit comprising an apparatus as described above, the kit further comprising a liquid release mechanism, wherein upon activation of the liquid release mechanism, liquid from a liquid supply is applied to said opposed surface of the sample separation filter to provide liquid communication with a spermatozoa detection means.

The spermatozoa detection means may be integral with the apparatus or it may be provided as a separate or separable component of the kit.

The kit may comprise an integral liquid supply, or an external liquid supply may be used. It will be appreciated that the liquid must be one in which motile spermatozoa remain motile for a sufficient period of time to migrate to the spermatozoa detection means, *ie.* the liquid is generally non-toxic to spermatozoa. However, the liquid may be such that it has a toxicity to spermatozoa that is sufficiently low that enough spermatozoa will successfully reach the detecting means. The liquid is preferably a buffer such as phosphate buffered saline (PBS) or Earle's Balanced Salt Solution (EBSS), as described in PCT/GB99/01929.

It will be appreciated that, where a gel-based filter is used, the gel can act as its own liquid supply. It may be desirable, however, to supply liquid to the opposed surface of a gel-based filter, for instance to dilute a sample after separation through the filter.

The kit may comprise two or more separable components, for example the apparatus and a base unit for the apparatus to engage with. Application of the apparatus to the base unit may be adapted to activate the liquid release mechanism, thereby wetting the spermatozoa detection filter and sample separation means. Alternatively, a button release for the liquid may be provided. The wetting of the spermatozoa detecting filter may activate the detecting agents applied to the spermatozoa detecting means.

An overflow container for catching excess liquid applied to the apparatus upon activation of the liquid release mechanism may be provided.

5 The liquid supply may comprise a frangible compartment or portion, wherein the liquid release mechanism breaks the compartment to release liquid contained therein. The liquid thereby released may then be channelled by a ramp towards a well formed between the apparatus and a base portion of the kit. The compartment may be piercable by a liquid release mechanism in the form of a piercing mechanism, for example retained by a stop, the stop preventing the piercing mechanism from piercing the compartment until activated by a user.

10 The invention also provides a method of detecting the presence of motile sperm in a sample, comprising the steps of providing a filter having first and second surfaces, the filter permitting migration of the motile sperm therethrough when a liquid is applied to the second surface, applying the sample to the first surface, applying a liquid to the second surface, and detecting sperm that has migrated through the filter. The sample may be a mixture comprising motile and non-motile spermatozoa. The filter may be the filter contained within the apparatus or the  
15 kit as described above.

### BRIEF DESCRIPTION OF DRAWINGS

**Figure 1** shows a kit in accordance with the present invention prior to application of a vessel to a base unit. **Figure 2** shows the kit of **Figure 1**, with an overflow, after application of the vessel to the base unit. **Figure 3** shows an alternative embodiment in which the detection  
20 means is a separable component of the kit.

### MODES FOR CARRYING OUT THE INVENTION

A kit 10 for testing male fertility is shown in **Figures 1** and **2**. The kit comprises a vessel 12, a base unit 14, a liquid supply 16 containing liquid 18, and two filters 20,22.

25 The first filter 20 is a sample separation filter 20 which forms a hindrance to transmission of spermatozoa due to the composition and construction thereof. For example, the filter will substantially retain on a sample receiving surface thereof seminal fluid and non-motile spermatozoa present in a sample deposited thereon. This may be by virtue of the pore size of the filter, for example. Non-motile spermatozoa will not pass through the filter. However, where the spermatozoa are motile, they will be able to "swim" through the filter.

**Experiment 1: The assessment of sperm toxicity.**

**Experiment 2: The evaluation of sperm “wicking” through a filter.**

**Experiment 3: Efficacy of a filter to prevent the passage of dead or immobile spermatozoa**

30 A sample of dead or immobilised sperm is obtained by either heating a semen sample at 95°C in a water bath or by adding a 10% cyanide solution. 200µl of a dead or immobilised semen

sample is applied to the upper surface of the filter, the underside of the filter being in direct communication with 1 ml of EBSS. After 5, 10, 15 and 30-minute intervals, a 10 $\mu$ l aliquot of the filtrate is removed and examined under light microscopy for the presence of spermatozoa. An effective filter will not allow the passage of dead or immobile spermatozoa for the duration  
5 that the semen sample is required to be in contact with the upper surface of the filter.

**Experiment 4: Efficacy of a filter to selectively allow the passage of motile spermatozoa.**

An assessment of the wet preparation of a semen sample is performed (Practical Laboratory Andrology, pages 49-50) and the characteristics noted. 250 $\mu$ l of the semen sample is applied to the upper surface of the filter, the underside of the filter being in direct communication with  
10 1 ml of EBSS. After 5, 10, 15 and 30-minute intervals, a 10 $\mu$ l aliquot of the filtrate is removed and examined under light microscopy for the presence of motile spermatozoa and the ratio of motile versus non-motile spermatozoa in the filtrate compared to that of the original sample. An effective filter should allow the passage of motile spermatozoa. For example if the original semen sample had a motility of 40% (*ie.* 60% of spermatozoa are non-motile), the filtrate  
15 should preferably have a motility of at least 90% with less than 10% being non-motile.

The second filter 22 of the kit is a spermatozoa detection filter 22. The spermatozoa detection filter 22 forms a detection zone 26 for the spermatozoa that can migrate through the sample separation filter 20. The detection zone 26 is provided within the spermatozoa detection filter 22, and comprises a reagent capable of generating a signal upon interaction with spermatozoa.  
20 However, a gap 24 is formed between the two filters 20,22 to prevent activation of the kit until such time that a transport medium, for example the liquid 18 in the liquid supply 16, has been supplied to fill the gap 24 to enable the spermatozoa to be transmitted to the detection zone 26, and thus the fertility test to be conducted with the kit.

The composition and construction of suitable filters 20,22 and the detection zone 26 may be  
25 such as that described herein, or such as that described in further detail in the prior art. However, preferable compositions and constructions are as described in PCT/GB99/01929, the complete disclosures of which are incorporated herein by reference. A particularly preferred filter material is identified as Filter 4622, available from Ahlstrom Filtration, Inc., 122 W. Butler Street, PO Box A, Mt. Holly Springs, PA 17065-0238, USA. It comprises a micro glass  
30 fibre with an acrylic binder. The acrylic latex is an anionic dispersion of acrylate polymers and

copolymers in a water base. These polymers are based on acrylic esters. The pore size is 20µm and the thickness is 580µm.

The vessel 12 has a circular cross section with a side wall 28, an open top 30, an annular base 32 and an open nozzle 34 formed on the annular base 32. The spermatozoa detection filter 22 is provided within the nozzle 34. A cap (not shown) may be placed onto the open top 30 for maintaining a sterile environment within the vessel 12. The cap over the open top 30 would need to be removed for application of a sample into the vessel 12.

The base unit 14 comprises the liquid supply 16, a liquid release mechanism 36 and a well 38. The well 38 comprises a hole 40 adapted to receive the nozzle 34. The hole 40 may have a window (not shown) provided therein for inspection of the detection zone 26 after activation of the kit 10. The base unit 14 further comprises a ramp 42 for channelling liquid 18 from the liquid supply 16 into the well 38, and an overflow 44 for catching excess liquid 18 provided into the well 38 from the liquid supply 16.

The liquid release mechanism 36 is in the form of a piercing member 37 adapted to be activated by application of the vessel 12 onto the base unit 14. Prior to activation of the piercing member 37, the piercing member 37 is retained by a stop 48. Application of the vessel 12 draws the piercing member 37 past the stop 48. A frangible portion may be provided for the liquid supply 16 for puncturing with the piercing member 37 as it draws past the stop 48. This frangible portion may comprise a tin-foil wall section.

#### 20 Experiment 5: Separation of motile spermatozoa using gel filters

Various gel-like filters can be used for the spermatozoa separation. The gel media were obtained from Sigma-Aldrich or Pharmacia-Upjohn and were resuspended in EBSS (Gibco-BRL). Four different hyaluronic acid gels and one methylcellulose gel were tested.

Flattened glass capillary tubes (Camlab), with dimensions 1.2 x 4.8mm and an inner diameter vision path of 0.4mm, were filled with the resuspended media, with one end sealed. The open end of the tube was placed in a 1.5ml microfuge tube containing 100µl or 200µl liquefied semen. Sperm were allowed to migrate into the gel for 30min at room temperature, and the tube was wiped and observed under the microscope.

The numbers of spermatozoa at 1cm distances from the open end of the tube were recorded in order to assess the penetration and migration in the various gels. Numbers of spermatozoa per

field of view, using x10 or x20 objectives and a x10 eyepiece to give final magnification of x100 or x200, were counted on an Olympus BH-2 microscope. The area observed at 100x magnification was  $0.785\text{mm}^2$ ; at 200x magnification, the area was  $0.196\text{mm}^2$ .

The results for the four hyaluronic acid products were as follows:

Gel concentration (mg/ml)	Initial number of sperm ( $\times 10^6$ )	Initial sperm motility (%)	Magnif <sup>n</sup>	Number of spermatozoa			
				1cm	2cm	3cm	4cm
Hyaluronic acid 1 – MW: $3\text{-}5.8 \times 10^6$ , from human umbilical cord							
1	91	69	x20	180	50	30	-
0.5				150	38	20	-
Hyaluronic acid 2 – MW: $\sim 2 \times 10^6$ , from rooster comb							
5	126	79	x20	69	12	5	-
2				-	-	-	-
1				300	2	-	-
0.5				150	2	-	-
Hyaluronic acid 3 – MW: $0.85\text{-}1.6 \times 10^6$ , from Streptococcus zooepidemicus							
2	126	79	x20	40	7	4	-
1				59	1	-	-
0.5				16	2	-	-
Hyaluronic acid 1 – Healonid from Pharmacia-Upjohn							
1.25	95	69	x20	300	180	22	5
0.625				280	130	15	5

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The results for methylcellulose at a viscosity of 15cp were as follows:

Gel concentration (mg/ml)	Initial number of sperm (x10 <sup>6</sup> )	Initial sperm motility (%)	Magnif <sup>n</sup>	Number of spermatozoa			
				1cm	2cm	3cm	4cm
Semen sample 1							
10	22	79	x20	68	4	-	-
0.55				74	4	1	-
2				80	8	-	-
1				50	4	-	-
0.5				23	6	-	-

Semen sample 2							
20	52	61	x10	10	-	-	-
10				116	20	5	-
5				115	8	3	-
2.5			x20	82	12	3	-
Semen sample 3							
10	33	88	x10	80	1	-	-
5				68	-	-	-
Semen sample 4							
10	91	69	x20	120	6	2	-

The results for methylcellulose at a viscosity of 4000cp were as follows:

Gel concentration (mg/ml)	Initial number of sperm ( $\times 10^6$ )	Initial sperm motility (%)	Magnif <sup>n</sup>	Number of spermatozoa			
				1cm	2cm	3cm	4cm
Semen sample 1							
10	160	80	x20	250	62	18	-
5				150	5	-	-
Semen sample 2							
10	5	64	x10	5*	-	-	-
5				1*	-	-	-
Semen sample 3							
10	160	0	x10	-	-	-	-
5				-	-	-	-
Semen sample 4							
10	66	75	x10	120	8	-	-
5				80	2	-	-
Semen sample 5							
10	33	88	x10	510	8	-	-
Semen sample 6							
10	101	64	x20	250	50	28	12

\* - these two measurements taken at 0.25cm from open end

It is evident, therefore, that gels can be used as filters to separate motile sperm from a sample

5 containing spermatozoa.



A process of performing a male fertility test with the above-described kit will now be described.

A sample of seminal fluid 46, or ejaculate, is deposited within an unused or recycled vessel 12 through the open top 30 and onto the sample separation filter 20. The sample may be deposited, for example, by direct application by the user, or by a pipette application from an ejaculated semen sample. The thereby primed vessel 12 is then applied to an unused or recycled base unit 14 which has a fresh liquid supply 16 such that the nozzle 34 of the vessel 12 is inserted within the hole 40 of the base unit 14. During the application of the vessel 12 to the base unit 14, the side wall 28 of the vessel 12 activates the piercing member 37 to puncture the liquid supply 16, as shown in figure 2, in which the piercing member 37 has pierced through the frangible portion of the liquid supply 16. Alternatively, a piercing button 50, see Figure 3, may be provided for piercing the liquid supply 16.

Upon piercing the liquid supply 16, the liquid 18 contained within the liquid supply 16 is channelled down the ramp 42 into the well 38, filling the hole 40 and the well 38 with liquid 18, the liquid 18 also entering through the nozzle 34 of the vessel 12, which is located within the hole 40 of the base unit 14. Thereby, the liquid passes through the spermatozoa detecting filter 22 to fill the gap 24 between the two filters 20,22 with the liquid 18. Excess liquid 18 overflows the well 38 and is collected by the overflow 44.

The liquid 18 acts as a transport medium for spermatozoa that has migrated through the sample separation filter 20 to permit the spermatozoa to migrate beyond the sample separation filter 20 towards the spermatozoa detecting filter 22, so that it may be detected by the detection zone 26 within the spermatozoa detecting filter 22. Upon detection of spermatozoa at the detection zone 26, a signal is produced by the reagent provided thereat, thus signifying presence of motile spermatozoa. In the absence of motile spermatozoa in the sample, no spermatozoa will reach the detection zone 26 since non-motile or reduced-motile spermatozoa will not pass through the sample separation filter 20.

The kit 10 of Figure 3 is an alternative embodiment of the present invention. It has an open top 30 exposing a sample separation filter 20 as described above. A sample 46 is shown deposited onto the sample separation filter 20 on a sample receiving surface thereof.

The side wall 28 of the kit 10 defines a well 38. A liquid supply 16 is provided integral with the kit 10, adjacent the well 38, the liquid supply 16 containing liquid 18 and having a

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It will, of course, be understood that the present invention, and in particular the kit and a method of its use, has been described above purely by way of example. Modifications may be made whilst remaining within the scope and spirit of the invention.

## CLAIMS

1. An apparatus for separating motile spermatozoa from non-motile spermatozoa in a liquid sample, the apparatus comprising (i) a vessel having a sample receiving inlet, a filtered sample outlet and a sample separation filter mounted therebetween, the sample separation  
5 filter having a sample-receiving surface and an opposed surface, and the sample separation filter being effective substantially to prevent flow of the sample therethrough, but permitting passage of motile spermatozoa therethrough when said opposed surface of said sample separation filter is placed in contact with a liquid medium and (ii) means for supplying a liquid to said opposed surface of said filter.
- 10 2. An apparatus according to claim 1, wherein the sample separation filter is of a gel or foam construction.
3. An apparatus according to claim 1, wherein the filter is fibrous.
4. An apparatus according to claim 3, wherein the fibrous filter is made of glass wool or polypropylene.
- 15 5. An apparatus according to any preceding claim, wherein the sample additionally comprises non-motile spermatozoa and spermatozoa with reduced motility.
6. An apparatus according to any preceding claim, comprising a spermatozoa detection means on the outlet side of the sample separation filter, and spaced therefrom.
7. An apparatus according to claim 6, wherein the detection means is integral with the  
20 apparatus.
8. An apparatus according to claim 6, wherein the detection means is a separable component of the apparatus for inserting into the apparatus before, during or after placing the sample separation filter in contact with the liquid medium.
9. An apparatus according to any preceding claim, wherein the filter has a thickness of  
25 100-2000 $\mu$ m.
10. An apparatus according to claim 9, wherein the filter has a thickness of 200-1000 $\mu$ m, preferably 400-800 $\mu$ m.
11. An apparatus according to claim 10, wherein the filter has a thickness off about 600 $\mu$ m.

12. An apparatus according to any preceding claim, wherein the filter has a minimum particle retention size of 5-100 $\mu$ m, preferably 8-60 $\mu$ m, more preferably 10-40 $\mu$ m.
13. An apparatus according to any preceding claim, wherein the filter has an underlying grid lattice for supporting the filter.
- 5 14. An apparatus according to any of claims 6 to 13, wherein a reagent or a combination of reagents which is/are directly or indirectly capable of generating a visual signal on interaction with spermatozoa is/are located in the spermatozoa detection means.
15. An apparatus according to claim 14, wherein the reagent or combination of reagents include antibodies that detect an antigen present on spermatozoa and are capable of binding  
10 spermatozoa.
16. An apparatus according to claim 15, wherein spermatozoa, when immobilised by the antibodies, can be visually detected using a visually detectable reagent which binds to spermatozoa.
17. An apparatus according to any of claims 6 to 16, wherein a spermatozoa  
15 chemoattractant is located in the spermatozoa detection means.
18. An apparatus according to claim 17, wherein the spermatozoa chemoattractant is located in a portion of the spermatozoa detection means distal from the sample separation filter.
19. An apparatus according to any of claims 6 to 18, wherein a pick-up zone is located either in the sample separation filter or the spermatozoa detection means, said pick-up zone  
20 comprising a reagent or combination of reagents which is/are capable of binding to spermatozoa and being transported therewith to a detection area of the spermatozoa detection means.
20. An apparatus according to claim 19, wherein the reagent or combination of reagents of the pick-up zone include antibodies that detect an antigen present on spermatozoa.
- 25 21. An apparatus according to claim 20, wherein the antibodies that detect an antigen present on spermatozoa are detectably labelled.
22. An apparatus according to claim 21, wherein the antibodies that detect an antigen present on spermatozoa are detectably labelled with gold particles.

23. An apparatus according to claim 20, claim 21 or claim 22, wherein the antibodies that are located in a detection area of the spermatozoa detection means recognise a different spermatozoa antigen compared to the antibodies located in the pick-up zone.
24. An apparatus according to claim 20, claim 21 or claim 22, wherein the antibodies that are located in a detection area of the spermatozoa detection means recognise the same spermatozoa antigen as the antibodies located in the pick-up zone.
25. An apparatus according to any of claims 6 to 24, wherein the spermatozoa detection means comprises a spermatozoa acrosome-lysing reagent and a means for detecting pH change.
26. An apparatus according to claim 25, wherein the spermatozoa acrosome-lysing reagent is a lysis buffer.
27. An apparatus according to claim 26, wherein the lysis buffer comprises Proteinase K or the calcium ionophore A24297.
28. An apparatus according to claim 25, claim 26 or claim 27, wherein the means for detecting pH change is a pH sensitive probe.
29. An apparatus according to claim 25, claim 26 or claim 27, wherein the means for detecting pH change is a pH indicator reagent capable of visually detecting a pH change.
30. An apparatus according to claim 29, wherein the pH indicator reagent is bromocresol purple.
31. An apparatus according to any of the preceding claims, wherein the sample receiving surface of the sample separating filter contains an enzymatic liquefaction agent.
32. A male fertility testing kit comprising an apparatus according to any one of claims 6 to 31, the kit comprising a liquid release mechanism, wherein upon activation of the liquid release mechanism, liquid from a liquid supply is applied to the sample filtered end of the sample separation filter to provide liquid communication with the spermatozoa detection means.
33. A kit according to claim 32, wherein the detection means is a separable component of the kit.
34. The kit of claim 32 or claim 33, comprising an integral liquid supply.

35. The kit of claim 34, wherein liquid contained within the liquid supply is a buffer.
36. The kit of any one of claims 32 to 35, wherein the apparatus and a base unit form two separable components of the kit.
37. The kit of claim 36, wherein application of the apparatus to the base unit causes  
5 activation of the liquid release mechanism.
38. The kit of any one of claims 32 to 36, wherein a button release is provided for activating the liquid release mechanism.
39. The kit according to any of claims 32 to 38, wherein wetting the spermatozoa detection means with the liquid activates detecting agents applied thereto.
- 10 40. The kit according to any of claims 32 to 39, further comprising an overflow container for containing any excess liquid applied to the apparatus upon activation of the liquid release mechanism.
41. The kit according to any of claims 32 to 40 incorporating the liquid supply, the liquid supply comprising a frangible compartment, wherein the liquid release mechanism breaks the  
15 compartment to release liquid contained therein.
42. The kit according to claim 41, wherein liquid released from the compartment is channelled by a ramp towards a well formed between the apparatus and a base portion of the kit.
43. The kit according to claim 41 or claim 42, wherein the compartment is piercable and the liquid release mechanism is a piercing mechanism.
- 20 44. The kit according claim 43, wherein the piercing mechanism is retained by a stop, the stop preventing the piercing mechanism from piercing the compartment until activated by a user.
45. A method of detecting the presence of motile sperm in a sample, comprising:
- (a) providing a filter having first and second surfaces, the filter permitting migration of the motile sperm therethrough when a liquid is applied to the second  
25 surface,
- (b) applying the sample to the first surface,
- (c) applying a liquid to the second surface, and
- (d) detecting sperm that has migrated through the filter.

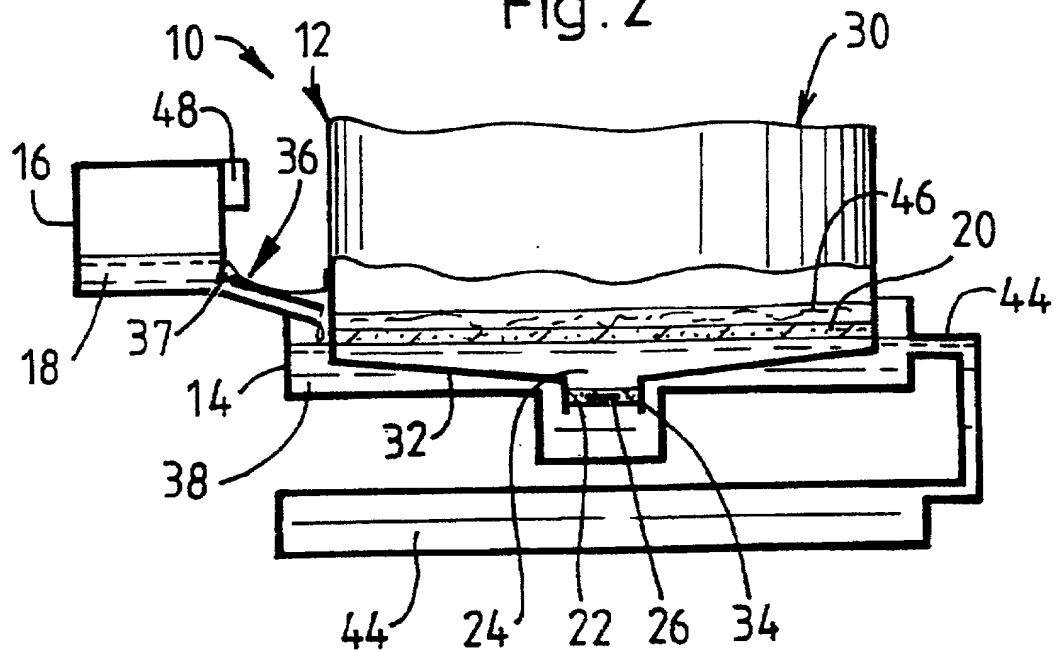
47. The method of claim 43, wherein the filter is the filter contained within the kit of any of claims 32 to 44.

49. A male fertility testing kit substantially as hereinbefore described with reference to the accompanying drawings.

50. A method for detecting an analyte in a sample substantially as hereinbefore described with reference to the accompanying drawings.

51. A method of detecting motile spermatozoa in a sample substantially as hereinbefore described with reference to the accompanying drawings.

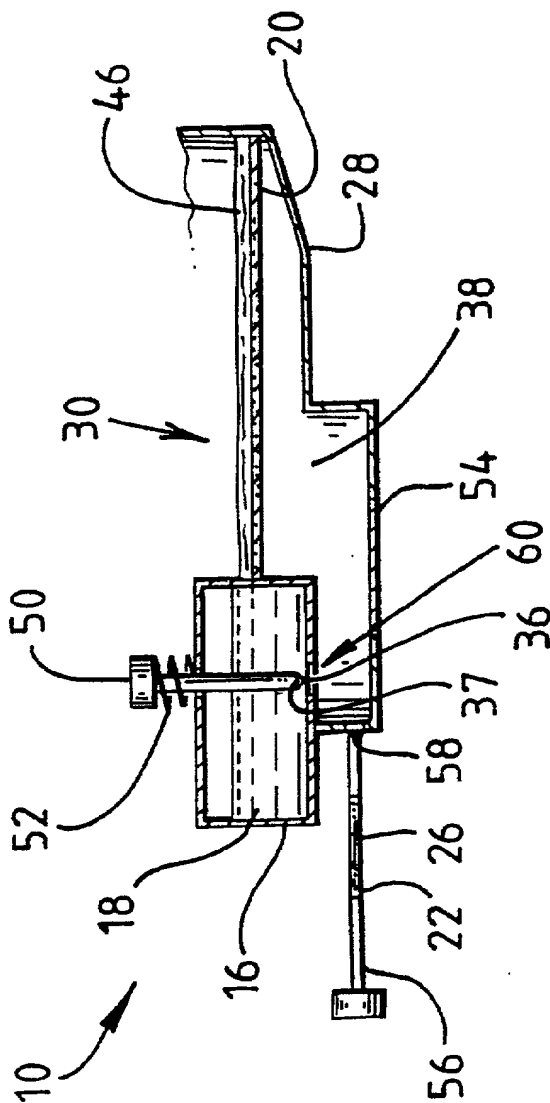
Fig. 1





2 / 2

Fig. 3



**COMBINED DECLARATION AND POWER OF ATTORNEY**

---

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name; and

I verily believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **SEPARATION AND DETECTION OF SPERMATOZOA**, the specification of which:

         is attached hereto.

  X   was filed on                  as Application Serial No.                 .

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Office all information known to me to be material to the patentability of this application as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate(s), or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below any foreign application(s) for patent or inventor's certificate(s), or PCT International application having a filing date before that of any application on which priority is claimed:

Country	Number	Date Filed	Priority Claimed
GB	9817795.9	August 14, 1998	

I hereby claim the benefit under 35 U.S.C. § 119(e)(1)-(2) of any United States provisional application(s) listed below:

<u>Application No.</u>	<u>Month/Day/Year Filed</u>	<u>Status (Pending, abandoned, patented)</u>
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I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) listed below, or § 365(c) of any PCT International application designating the United States listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability of the application as defined in 37 CFR § 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>Application Serial No.</u>	<u>Filing Date</u>	<u>Status (patented, pending)</u>
PCT/GB99/02685	August 13, 1999	Pending

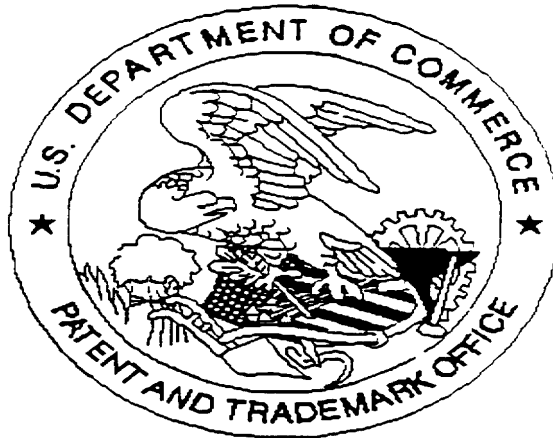
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